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PATENT

Attorney Docket No. 555255012709

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Hongjun Zhang and Ashok C. Patel
Serial No.: 10/776,986
Filed: February 11, 2004
For: Apparatus, and Associated Method, for Facilitating Control of
Control Signaling Performed by a Mobile Node Operable in a
Radio Communication Network
Art Unit: 2681
Examiner: Not yet assigned

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Attn: Office of Petitions, Attorney Derek L. Woods

Request For Reconsideration of Petition Under 37 CFR 1.47(a)

In accordance with 37 CFR § 1.47(a) and MPEP §409.03(a) and (d), applicant Patel, through its assignee, Research in Motion Limited, hereby petitions the Assistant Commissioner to accept the filing of this patent application on behalf of himself, and by way of the previously-submitted assignment, the assignee, and the joint inventor, Hongjun Zhang, who cannot be found our reached to join in the application for patent. Any fees due for filing this petition, including the fees under 37 CFR § 1.17, may be charged to Jones Day Deposit Account No. 501432, ref: 555255012709.

I hereby certify that this correspondence
is being deposited today with the United
States Postal Service as first class mail in
an envelope addressed to: Commissioner for
Patents, P.O. Box 1450, Alexandria, VA
22313-1450

on Dec. 28, 2004

By: Debbie Pejean

Page 1 of 3

This Request for Reconsideration is responsive to the Decision Dismissing Petition Under 37 CFR 1.47(a) dated November 17, 2004, signed by PTO Attorney Derek L. Woods in the Office of Petitions. A copy of this Decision is attached hereto. Applicant's representative contacted Attorney Woods regarding this decision, at which time Mr. Woods indicated that the petition would be granted if the Internet search results referenced in the Declaration of David B. Cochran were attached thereto. Accordingly, the Declaration of David B. Cochran has been supplemented with the aforementioned Internet search results to establish the unknown whereabouts of inventor Hongjun Zhang.

As required by MPEP § 409.03(d), applicants enclose herein proof of the diligent efforts made to locate the inventor, Mr. Zhang, in the form of a Declaration of David B. Cochran. In the Declaration, Mr. Cochran states that a bona fide attempt was made to locate Mr. Zhang so that he could sign the Declaration, but those attempts failed to locate him. The Declaration by Mr. Cochran is deemed by the applicants to be sufficient proof of the inability to locate Mr. Zhang. The Declaration has now been supplemented to include the Internet search results referred to above.

In accordance with MPEP § 409.03(a) and (d), a Declaration signed by Mr. Patel with the signature block of Mr. Zhang left blank was previously submitted in this application along with the First Petition Under 37 CFR 1.47. The last known address of Mr. Zhang is "Hongjun Zhang, 271 Eiwo Court, Unit 201, Waterloo, Ontario, CANADA."

Respectfully Submitted,

David Cochran

David B. Cochran

Registration No. 39,142

JONES, DAY, REAVIS & POGUE

901 Lakeside Avenue/North Point

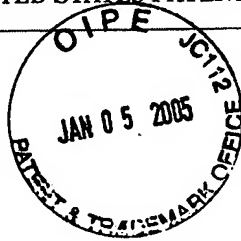
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(216) 586-3939

Date: 12/21/04



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OFFICE OF PETITIONS

In re Application of:	:	
Hongjun Zhang and Ashok C. Patel	:	
Application No. 10/776,986	:	DECISION DISMISSING
Filed: February 11, 2004	:	PETITION UNDER
Title of Invention: APPARATUS AND	:	37 CFR 1.47(a)
ASSOCIATED METHOD, FOR FACILITATING:	:	
CONTROL OF CONTROL SIGNALING	:	
PERFORMED BY A MOBILE NODE OPERABLE:	:	
IN A RADIO COMMUNICATION NETWORK	:	

This is in response to the Petition Under 37 CFR § 1.47(a), to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is dismissed.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)"; should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor, AND BE ADDRESSED TO Attorney Derek L. Woods. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on February 11, 2004, without, a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), on May 12, 2004, requiring *inter alia*, a properly signed oath or declaration.

In response to the Notice, Applicant files the instant wherein Applicant avers that the nonsigning inventor cannot be found or reached after diligent effort. This assertion is supported by a

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Declaration of David B. Cochran ("Cochran Declaration") wherein Applicant avers that after sending inventor Zhang a copy of the Declaration via Fed Ex, and having the package returned with an indication that inventor Zhang no longer resided at his last known address, "[t]he assignee contacted several of Mr. Zhang's associates in an attempt to ascertain his whereabouts, but was unsuccessful."

Applicable Law

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1) set forth above.

As to item (1), applicant is advised that, where an inventor is unavailable (cannot be reached), while it is not required that the application be mailed, Petitioner must establish the exercise of diligent effort in trying to find or reach the nonsigning inventor. A statement of facts should be submitted from a person with first hand knowledge of the facts relied upon that *fully describes the exact facts* which are relied on to establish that a diligent effort was made to locate the inventor. (Emphasis supplied). See, MPEP § 409.03(d). At the very least, an Internet search, or a search of telephone directories should be undertaken of the regions where it is suspected the non-signing inventor may reside. Copies of the results of such searches must be referred to in any renewed petition. It is important that the forthcoming communication contain statements of fact as opposed to conclusions. See, MPEP § 409.03(d).

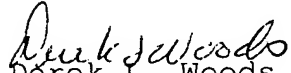
Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
 PO Box 1450
 Alexandria, VA 22313-1450

By FAX: (703) 872-9306
 Attn: Office of Petitions

By hand: 2201 South Clark Place
Customer Window
Crystal Plaza Two, Lobby Room 1B03
Arlington, VA 22202

Telephone inquiries concerning this decision should be directed
to the undersigned at (571) 272-3232.


Derek L. Woods
Attorney Advisor
Office of Petitions



PATENT

Attorney Docket No. 555255012709

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Hongjun Zhang and Ashok C. Patel
Serial No.: 10/776,986
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Art Unit: 2681
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DECLARATION OF DAVID B. COCHRAN

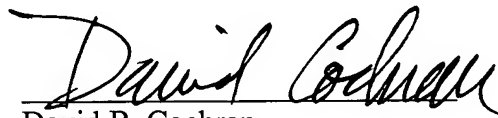
I hereby declare and state as follows:

1. I represent Research In Motion Limited ("RIM") in connection with the above-referenced patent application. This application names two inventors, Mr. Hongjun Zhang and Mr. Ashok Patel.
2. Mr. Patel has signed the Declaration and also an assignment transferring all of his rights in the invention to the assignee, RIM.
3. The assignee attempted to locate Mr. Zhang and, through its records, discovered that his last known address was 271 Eiwo Court, Unit 201, Waterloo, Ontario, CANADA. I then attempted to contact Mr. Zhang by sending him a letter, dated September 2, 2004, enclosing a copy of the Declaration for his signature. The Fed Ex package I sent to Mr. Zhang was returned, indicating that he no longer resided at this address. The assignee contacted

several of Mr. Zhang's associates in an attempt to ascertain his whereabouts, but was unsuccessful. I also conducted an internet search to find the current whereabouts of Mr. Zhang, but was also not successful in locating him. I conducted the search using the web site www.yahoo.ca, which provides access to numerous "people finder" search functions. I attempted to locate Mr. Zhang using these functions, but was unsuccessful. Attached hereto at Tab B are 3 printouts from these search functions. In the first two searches, conducted using "whitepages.ca" and "411.ca" there was no reference at all to Mr. Zhang. In the third search, conducted using "findaperson.canada411.ca," I was able to locate a Mr. Hongjun Zhang. I called the number shown for the entry, but there was no Mr. Zhang located at that phone number.

4. A copy of my letter to Mr. Zhang (without enclosures) is attached as Tab A.

5. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and the such willful false testimony may jeopardize the validity of the application or any patent issuing thereon.


David B. Cochran



JONES DAY

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TELEPHONE: 216-586-3939 • FACSIMILE: 216-579-0212

Direct Number: 216-586-7029
dcochran@jonesday.com

763244
555255-004001

September 2, 2004

Hongjun Zhang
271 Eiwo Court
Unit 201
Waterloo, Ontario
CANADA, N2K 2M8

Re: RIM Patent Application

Dear Hongjun:

While you were employed by Research In Motion you were listed as an inventor on the patent application for "Apparatus, and associated method, for facilitating control of control signaling performed by a mobile node operable in a radio communication system." Pursuant to your employment agreement with RIM, we need you to sign two documents to accompany the patent application. The first document is a Declaration of Inventorship, where you and the other inventor, Mr. Ashok Patel, indicate that you are, in fact, the inventors of this application. The second document is an assignment to RIM. You agreed to execute these documents as part of your employment agreement. Please execute these documents where shown, have the assignment witnessed by anyone who can personally view your signature, and return these documents to us in the enclosed Federal Express package as soon as possible.

If you have any questions regarding these documents please call me immediately at 216-586-7029. We need to obtain these signed documents from you as soon as possible. If you do not return the documents to us by September 12, 2004, we will assume that you are refusing to sign the documents.

Very truly yours,

David B. Cochran

CLI-1224351v1

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Mike Clark



Donald Thiel



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Mike Moore

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Zhang, Hongjun

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1 of 1 More information

http://findaperson.canada411.ca/search/Find_Person?firstname_begins_with=1&firstname=hongjun&name=zhang&city_zip=&state_id=

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